

REMARKS

In response to the Office Action mailed November 14, 2008, Applicants cancelled claims 1, 6, 15-22, 28-30 and 32, and amended claims 2, 7, 26 and 31. Applicants present claims 2-5, 7-14, 23-27 and 31 for examination.

The Examiner objected to claims 28, 29 and 31. Applicants do not concede that this objection is appropriate. Nonetheless, Applicants cancelled claims 28 and 29, and amended claim 31 to obviate the objection. Accordingly, Applicants request reconsideration and withdrawal of this objection

The Examiner rejected independent claim 23 and its dependent claims 24 and 25 under 35 USC §103(a) as being unpatentable over Van Senten.¹ In particular, the Examiner said that

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the curvature as claimed by the instant claim because the general condition of the claim and its advantage teaching of a range of size was disclosed by Van senten and whether the maximum radius of curvature is between 20 and 120 or any other range of distance, so long as to provide an optimum focus to the substrate image formation, discovering the optimum or workable ranges involves only routine skill in the art. (Office Action, p. 6.)

Applicants are not certain what exactly the Examiner means by “the general condition of the claim and its advantage teaching of a range size”. In any event, Van Senten provides no discussion regarding the maximum radius of curvature of an interface between an immersion liquid and a medium that adjoins the immersion liquid on the object side of a projection objective. Further, the Examiner provides absolutely no evidence to support his comment that “discovering the optimum or workable ranges involves only routine skill in the art.” Such an approach to rejecting claims is clearly improper. (*See, e.g.*, MPEP §2144.03). Simply put, it would not have been obvious to one skilled in the art to modify Van Senten’s systems to provide

¹ Applicants note that, while the Examiner objected to claim 31 (which previously depended from claim 23), the Examiner does not seem to have rejected this claim. Applicants also note that, contrary to the Examiner’s assertion that claim 31 is “directed to a device manufactured by a method” (Office Action, pp. 8-9), claim 31 recites a method of producing microstructured components.

Applicant : Bernhard Kneer et al.
Serial No. : 10/597,806
Filed : August 8, 2006
Page : 7 of 7

Attorney's Docket No.: 18239-0023US1 / 10709.5

the subject matter covered by claims 23-25. Applicants therefore request reconsideration and withdrawal of the rejection of claims 23-25.

The Examiner rejected independent claim 1 and claims 2-22, 26, 27, 30 and 32 (which previously depended from claim 1) under 35 USC §102(e) as being anticipated by Van Senten, or under 35 USC §103(a) as being unpatentable over Van Senten, Van Senten in view of Omura, or Van Senten in view of Omura and further in view of Coon. Applicants cancelled claims 1, 6, 15-22, 30 and 32, so the rejection of these claims should be withdrawn. Further, Applicants amended claims 2-5, 7-14, 26 and 27 to depend from independent claim 23. The patentability of independent claim 23 over Van Senten is discussed in the preceding paragraph. Neither Omura nor the combination of Omura and Coon cures Van Senten's deficiencies. Thus, while Applicants do not concede that it would have been obvious to one skilled in the art to combine the references in the manner indicated by the Examiner, even if the references were so combined, the result would not be the subject matter covered by independent claim 23. Claims 2-5, 7-14, 26 and 27 are patentable for at least the same reasons.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: February 2, 2009

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (877) 769-7945

/Sean P. Daley/

Sean P. Daley
Reg. No. 40,978